

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Global Plus 3 (MC2016-152)
Negotiated Service Agreements

Docket No. CP2017-258

ORDER APPROVING ADDITIONAL GLOBAL PLUS 3
NEGOTIATED SERVICE AGREEMENT AND CONDITIONALLY APPROVING
MODIFICATION

(Issued August 16, 2017)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Plus 3 agreement (Agreement) within the Global Plus 3 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 4, 2017 (Notice).

II. BACKGROUND

Agreements under the Global Plus 3 product offer volume-based prices to Postal Qualified Wholesalers and other high-volume mailers that market mailing services to their end-use customers who ship mail and articles via any combination of the following: International Priority Airmail, International Surface Air Lift, Priority Mail Express International, Priority Mail International, and Commercial ePacket. Global Plus 3 agreements also permit the contract partner to act as a reseller for Priority Mail Express International and Priority Mail International at discounted prices.

On August 4, 2017, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the Global Plus 3 product and requests that the Agreement be added to the existing Global Plus 3 product. Notice at 2. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the Global Plus 3 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Agreement is intended to take effect August 20, 2017. Notice at 3. It is set to expire August 31, 2018. *See id.*

On August 7, 2017, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

² See Docket No. CP2017-257, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, August 7, 2017.

On August 8, 2017, Chairman's Information Request No 1. was issued.³ CHIR No. 1 sought to address a discrepancy between the contract filed with the Notice and the supporting workpapers. The Postal Service timely filed a response on August 10, 2017, stating that it plans to file a modification in this docket to revise Annex 3 of the Agreement to be consistent with the workpapers.⁴ The Postal Service also requests that the Commission approve the Agreement despite the discrepancy. See Response to CHIR No. 1, Attachment 1 at 1-2.

III. COMMENTS

The Public Representative filed comments on August 15, 2017.⁵ No other comments were received.

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement satisfies the requirements of 39 U.S.C. § 3633(a) concerning rates for competitive products. PR Comments at 2. She states that the financial model accompanying the Postal Service's request indicates the Agreement should cover its costs. *Id.* at 3. She further states that the Agreement is functionally equivalent to the baseline agreement, despite differences between the two. *Id.*

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the Global Plus 3

³ Docket No. CP2017-247, *et al.*, Chairman's Information Request No. 1 and Notice of Filing Under Seal, August 8, 2017 (CHIR No. 1).

⁴ Docket No. CP2017-247, *et al.*, Response of the United States Postal Service to Chairman's Information Request No. 1, with Portions Filed Under Seal, August 10, 2017, Attachment 1 at 1 (Response to CHIR No. 1).

⁵ Public Representative Comments on a Postal Service Notice Concerning an Additional Global Plus 3 Negotiated Service Agreement, August 15, 2017 (PR Comments).

product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 3378, the Commission added the Global Plus 3 product to the competitive product list and designated a baseline agreement for assessing the functional equivalence of other agreements proposed for inclusion within the Global Plus 3 product.⁶

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the Global Plus 3 product. Notice at 2. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the Global Plus 3 product. *Id.* at 2-3. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms but states that prices may differ. *Id.* at 4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁷

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the

⁶ Docket Nos. MC2016-152 and CP2016-196, Order Adding Global Plus 3 to the Competitive Product List and Approval of Designation as Baseline Agreement, June 21, 2016 (Order No. 3378).

⁷ Differences include, among others, revisions to existing articles, the renumbering of several articles, and the inclusion of new articles. *Id.* at 5-6.

Agreement. The Commission therefore finds that the Agreement may be included within the Global Plus 3 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. The addition of the Agreement to the Global Plus 3 product will not cause cost coverage for the product to fall below 100 percent because, as the Commission found in the FY 2016 Annual Compliance Determination (ACD), the product as a whole covers its attributable costs.⁸ Consequently, the Commission finds that the addition of the Agreement to the Global Plus 3 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the Global Plus 3 product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the Global Plus 3 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the

⁸ Docket No. ACR2016, Annual Compliance Determination, March 28, 2017, at 78, 85-86.

Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the Global Plus 3 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the ACD to ensure that they continue to comply with 39 U.S.C. § 3633(a).

In Response to CHIR No. 1, the Postal Service indicates that it plans to file a modification to revise Annex 3 to be consistent with the workpapers. See Response to CHIR No. 1, Attachment 1 at 1. The Commission has reviewed the workpapers and concludes that the Agreement, if so modified, will continue to cover its attributable costs. The Commission therefore conditionally approves the forthcoming modification if it is (1) filed with 90 days of the date of this Order; (2) has an effective date no earlier than its date of filing; and (3) makes no changes to the Agreement other than a revision of Annex 3 to be consistent with the workpapers. Under those circumstances, the Commission anticipates taking no further action on such modification in this docket: the modification will be considered approved on the filing date of the modification. The Postal Service is reminded that, if the Agreement takes effect prior to the effective date of the modification, it may only offer the discounts listed in the Agreement until such time as the modification takes effect.

Other considerations. The intended effective date of the Agreement is August 20, 2017. Notice at 3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. The contract is set to expire August 31, 2018. See *id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2017-258 is included within the Global Plus 3 (MC2016-152) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Commission conditionally approves a modification to the Agreement if it is filed as discussed in the body of this Order.
3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement.
4. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.6 Global Plus Contracts

2510.6.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Plus 3
 Baseline Reference
 Docket Nos. MC2016-152 and CP2016-196
 PRC Order No. 3378, June 21, 2016
 Included Agreements

 CP2017-258, expires August 31, 2018
